

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Joseph Mansky,

Complainant,

vs.

Al Oertwig,

Respondent.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

TO: Joseph Mansky, Ramsey County Elections Manager, 50 West Kellogg Blvd, Suite 722, St. Paul, MN 55102; and Al Oertwig, 509 Fred Street, Saint Paul, MN 55101.

On February 14, 2007, Ramsey County Elections Manager Joseph Mansky filed a Complaint with the Office of Administrative Hearings alleging that Al Oertwig violated Minnesota Statutes § 211A.02 by failing to timely file his year-end campaign finance report. After reviewing the Complaint, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of Minnesota Statutes § 211A.02, subd. 1(b). This determination is described in more detail in the attached Memorandum.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a prehearing conference and evidentiary hearing to be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the prehearing conference and evidentiary hearing, and the three judges assigned to it, within one week of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the evidentiary hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A

party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: February 15, 2007

s/Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

Pursuant to Minnesota Statutes § 211A.02, subd. 1, candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year, must file financial reports with the “filing officer”¹ for that office. In addition to an initial financial report, a candidate or committee must also file a report by January 31 of each year following the year when the initial report was filed.²

If a candidate or committee fails to file a required financial report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file.³ If the report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint with the Office of Administrative Hearings under section 211B.32.⁴

All Oertwig was a candidate in the November 7, 2006, general election for the Saint Paul School Board. According to the complaint, Mr. Oertwig failed to file his year-end campaign financial report as required by Minnesota Statutes § 211A.02, subd. 1(b). Joseph Mansky is the Ramsey County Elections Manager. The Complaint alleges that on February 2, 2007, Ramsey County sent notice to Mr. Oertwig

¹ Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

² Minn. Stat. § 211A.02, subd. 1(b).

³ Minn. Stat. § 211A.05, subd. 2.

⁴ Minn. Stat. § 211A.05, subd. 2.

of his failure to file the required campaign financial report. To date, the County has not received the financial report from Mr. Oertwig.

Because the Complaint alleges that Mr. Oertwig has not filed the campaign financial report that was due by January 31, 2007, the Complaint states a prima facie violation of Minnesota Statutes § 211A.02, subd. 1(b). Pursuant to Minnesota Statutes § 211B.33, subd. 2(d), this matter shall be set on for an evidentiary hearing before a panel of three administrative law judges.

B.L.N.